

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA, et al.,

Plaintiffs,

v.

STATE OF WASHINGTON, et al.,

Defendants.

Case No. C70-9213RSM

Subproceeding No. 91-1

ORDER REGARDING 2017 HALIBUT
UNRESTRICTED SUB-FISHERY

THIS MATTER initially came before the Court on the Quileute Indian Tribe's Motion for Temporary Restraining Order. Subproceeding 91-1, Dkt. #461.¹ Quileute sought an Order from the Court restraining the Tribes in this subproceeding from conducting the first sub-fishery in the tribal halibut fishery until authorized by the tribal halibut management plan. *Id.* The Court granted the motion, and directed all Inside Tribes to cease halibut fishing no later than 6:00 p.m. on Monday, March 20, 2017. Dkt. #481. The Court further directed any Tribe that had engaged in such fishing to report its catch, and ordered the Quileute to submit a proposed plan for the initial unrestricted halibut fishery to the Court. *Id.*

¹ C70-9213RSM, Dkt. #21421. All remaining citations refer to those documents filed in Subproceeding 91-1.

1 The Inside Tribes have since reported their initial catches. Dkts. #481, #482, #484,
2 #485, #486, #489, #490, and #492. The total reported catch to date is 32,602 pounds of halibut.

3 Quileute has submitted a proposed order on behalf of the Coastal Tribes regarding the
4 initial unrestricted halibut fishery. Dkt. #487. The Coastal Tribes propose that the fishery
5 begin on Wednesday, March 29, 2017, at 7:00 a.m. *Id.* The Coastal Tribes further propose that
6 they fish for 39 hours and that the Inside Tribes fish for only 11.5 hours. *Id.* The Coastal
7 Tribes assert that this plan sanctions the Inside Tribes for violating the halibut management
8 plan, and will ultimately increase the pounds available for fishing in the Late Season Sub-
9 Fishery, which will allow all tribes to harvest those pounds at that time. *Id.* The Inside Tribes
10 oppose the plan. Dkts. #491, #493, #494 and #495. The Inside Tribes note that they have
11 already lost time and money due to the temporary restraining order, and that the proposed plan
12 is nonsensical given that the Tribes fish in entirely different fishing grounds. *Id.* They further
13 note that the lost revenue will not fully be recovered even if the Inside Tribes are allowed to
14 fish for their remaining 28 hours of the unrestricted fishery. Dkt. #493.

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17 The Court has reviewed the Coastal Tribes' proposed plan, along with the Inside Tribes'
18 objections, and the remainder of the record. For the reasons set forth by the Inside Tribes, the
19 Court rejects the Coastal Tribes' plan for the remaining fishery hours, and instead hereby
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21 **ORDERS:**

- 22 1. The Initial Unrestricted Halibut Sub-Fishery **shall commence at 7:00 a.m. on**
23 **Wednesday, March 29, 2017,** unless, in accordance with Management Measure
24 6.a and the 2011 Treaty Halibut Fishery Coastal Weather Criteria as interpreted by
25 the Court in its March 20, 2017, oral ruling and March 21, 2017, Order (Dkt. #481),
26 the subfishery is deferred automatically for one or more 24-hour period(s) because
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1 the wind and wave weather criteria are met, or the four Coastal Tribes unanimously
2 agree to delay the unrestricted subfishery due to weather concerns and so inform the
3 Inside Tribes. If either of those delays occurs, then the unrestricted subfishery will
4 begin at 7:00 a.m. on the first day after March 29, 2017 when neither of these delays
5 occur.

- 6
- 7 2. The Coastal Tribes shall fish no longer than the **39 hours** that this Court initially
8 scheduled as the duration for this fishery. The Inside Tribes shall fish no longer
9 than their **remaining 28 hours** of this fishery.
- 10 3. Pursuant to Management Measure 6(k), all Tribes shall report their catches from the
11 unrestricted halibut sub-fisheries in Sections 2 and 3 within 24 hours of their
12 respective closures of such fisheries. Pursuant to Management Measure 6(f),
13 following the closure of the Coastal Tribes' initial unrestricted halibut sub-fishery,
14 there shall be a 48-hour reporting period so that that the Parties can complete catch
15 data collection, report the data and consider such information in managing the
16 remaining sub-fisheries.
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- 18 4. The remaining sub-fisheries shall not begin until after the period specified in
19 Section 4, and shall otherwise be conducted in accordance with the terms of the
20 tribal halibut management plan.
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- 22 5. Beginning June 1, 2017, this matter will be referred to U.S. Magistrate Judge Brian
23 Tsuchida to continue the settlement conference of January 3, 2017. The halibut
24 tribes shall work collectively to improve the halibut management plan, including
25 addressing the issues identified in the Court's March 21, 2017 Order. The parties
26 will make best efforts to address these issues prior to the 2018 halibut season.
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DATED this 27 day of March, 2017.

A handwritten signature in black ink, appearing to read 'R. Martinez', is written over a horizontal line.

RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE